

Amendments to the Drawings:

The attached replacement sheets of drawings includes changes to Figs. 6A and 6D and replaces the original sheets including Figs. 6A, 6B, 6C, 6D, 6E, and 6F.

In FIG. 6A, frangible burst membrane 460 has been added over closure flap 405 and closure base 410.

In FIG. 6D, the conical pour spout has been identified as element 427, and a third array of fastening elements 475 has been added to fitment 470.

Attachments following last page of this Amendment:

Replacement Sheet (2 pages)

REMARKS

Applicants amended claims 1, 5, 6, 7, and 10-20, and added new claim 24. In addition, Applicants amended certain figures and certain portions of the specification. Claims 1-24 are presented for examination.

Objections to Drawings

The drawings were objected to under 37 CFR 1.83(a). In view of the amendments made to the figures, specification, and claims, Applicants request reconsideration and withdrawal of the objections to the drawings.

Claim Rejections – 35 U.S.C. § 112

Claims 10-12, 15, 16, and 19 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants amended claim 10 to replace “the first fastening portion” with “the first portion of the closure strip.” Applicants amended claims 15 and 16 to replace “the first and closure bases” with “the closure strip and closure base.” Applicants also amended claims 12 and 19 to clarify the respective scopes of these claims. Applicants, therefore, request reconsideration and withdrawal of this rejection.

Claim Rejections – 35 U.S.C. § 102

Claims 1-6, 8, 13-15, 18-20, and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Provost (U.S. Patent No. 5,172,980). Amended claim 1 covers fastener products that include an array of fastening elements permitting a first portion of a first base to be secured away from an opening of a package when the fastener product is disposed over the opening of the package to vary the size of the opening that is exposed to a user. Amended claim 6 covers packages that include an array of fastening elements permitting a first portion of a closure strip to be secured away from an opening defined by package to vary the size of the opening exposed to a user. Amended claim 20 covers methods that require an array of fastening elements permitting

a first portion of a first base to be secured away from an opening of a package to vary the size of the opening. Provost does not disclose or suggest each and every limitation of claims 1, 6, and 20.

Provost discloses a closure strip with a hook fastener element 12 and a loop element 14, wherein the contents of a bag are exposed by separating the hook fastener element from the loop element. (See, e.g., Provost, col. 2, lines 34-36; col. 3, lines 43-46; FIG. 2). Provost does not disclose or suggest an array of fastening elements permitting a first portion of a first base to be secured away from an opening of a package when the fastener product is disposed over the opening of the package to vary the size of the opening that is exposed to a user. Nor does Provost disclose or suggest fastening elements that permit a first portion of a closure to be secured away from an opening in a package to vary the size of the opening exposed to a user. This is not merely a trivial distinction. As noted in Applicants' specification, for example, by securing the first and second arrays of fastening elements away from an opening, additional arrays of fastening elements improve the passage of contents through the opening. (See, e.g., Application, p. 8, lines 6-12; FIGS. 5A-5B).

Amended claim 5 covers closure labels that include "a perimeter gasket arranged around an opening in the substrate, the perimeter gasket connecting the second portion of the first base and the second portion of the second base in a unitary construction." Provost does not disclose or suggest a perimeter gasket arranged around an opening in a substrate, much less a perimeter gasket connecting a first and second base in a unitary construction. Provost discloses a multi-step process for sealing a bag with a closure strip: a closure strip is adhered to the front of a bag; the closure strip is adhered to the back of the bag; the bag is sealed shut by bonding the closure strip to itself; and sections between successive bags are cut to create extending ears that seal shut the sides of the bag. (See, e.g., Provost, col. 2, lines 58-67). Provost makes no mention of a perimeter gasket. This is not a trivial distinction. As noted in Applicants' specification, the use of a perimeter gasket arranged around an opening and connecting a first and second base in a unitary construction is advantageous for simplifying the application of a label, for example, by

allowing the fastener to be applied to a bag as a single label. (See, e.g., Application, p. 6, lines 10-11).

Amended claim 19 covers packages including an “opening shaped to receive a fitment” and a closure strip with first fastening elements “engageable with an array of fastening elements on the fitment to secure the fitment to the package.” Provost does not disclose or suggest a package operable with a fitment, much less a package with an opening shaped to receive a fitment and fastening elements engageable with fastening elements on the fitment. As noted in Applicant’s specification, a package operable with a fitment is advantageous, for example, for facilitating the ingress or egress of the contents of the package. (See, e.g., Application, p. 9, lines 16-17). Applicant’s specification also notes that arrangement of fastening elements on a closure strip for engagement with fastening elements on a fitment is advantageous for securing the fitment and/or reducing spillage of contents of the package. (See, e.g., Application, p. 9, lines 26-27).

In view of the forgoing discussion, Applicants request reconsideration and withdrawal of the rejection of claim 1-6, 8, 13-15, 18-20, and 22 as anticipated by Provost.

Claims 1, 4-8, 13-17, and 19-22 were rejected under 35 U.S.C. § 102(b) as being anticipated by Ruben (U.S. Patent No. 5,964,399). But Ruben fails to disclose or suggest each and every limitation of these claims.

Amended claim 1, as discussed above, covers fastener products that include an array of fastening elements permitting a first portion of a first base to be secured away from an opening of a package when the fastener product is disposed over the opening of the package to vary the size of the opening that is exposed to a user. As noted above, amended claim 6 covers packages that include an array of fastening elements permitting a first portion of a closure strip to be secured away from an opening defined by package to vary the size of the opening exposed to a user. Amended claim 20, as discussed above, covers methods that require an array of fastening elements permitting a first portion of a first base to be secured away from an opening of a package to vary the size of the opening. Provost does not disclose or suggest each and every limitation of claims 1, 6, and 20.

Ruben discloses a latch member 362 arranged on one side of a gap 40 and a receiver 340 fixed on the opposite side of the gap. (See, e.g., Ruben, col. 6, lines 44-48). To prevent damage to the latch member 362, the latch member is restrained when it is not engaged with the receiver 340. (See, e.g., Ruben, col. 7, lines 1-6). Ruben discloses neither arranging the latch member 362 nor arranging the receiver 340 to vary the size of the gap 40. Therefore, Ruben does not disclose or suggest an array of fastening elements permitting a first portion of a first base to be secured away from an opening of a package when the fastener product is disposed over the opening of the package to vary the size of the opening that is exposed to a user, or fastening elements that permit a first portion of a closure to be secured away from an opening in a package to vary the size of the opening exposed to the user. This is not merely a trivial distinction. As indicated in Applicant's specification, the use of additional arrays of fastening elements to secure a portion of one or more bases away from an opening changes the size of the opening, providing uninhibited access to the contents of the package. (See, e.g., Application, p. 8, lines 4-13; FIGS. 5A and 5B).

As noted above, amended claim 5 covers closure labels that include "a perimeter gasket arranged around an opening in the substrate, the perimeter gasket connecting the second portion of the first base and the second portion of the second base in a unitary construction." Ruben does not disclose or suggest a perimeter gasket and, therefore, also fails to disclose a perimeter gasket connecting a first and second base in a unitary construction.

As also noted above, amended claim 19 covers packages including an "opening shaped to receive a fitment" and a closure strip with first fastening elements "engageable with an array of fastening elements on the fitment to secure the fitment to the package." Ruben does not disclose or suggest an opening shaped to receive a fitment and, therefore, further fails to disclose or suggest fastening elements engageable with fastening elements on a fitment.

In view of the discussion above, Applicants request reconsideration and withdrawal of the rejection of claims 1, 4-8, 13-17, and 19-22 as being anticipated by Ruben.

Claims 1-6, 9-20, 22 and 23 were rejected under 35 U.S.C. 102(e) as being anticipated by Steele (U.S. Patent No. 7,040,810). Steele fails to disclose or suggest each and every limitation of these claims.

Amended claim 1, as discussed above, covers fastener products that include an array of fastening elements permitting a first portion of a first base to be secured away from an opening of a package when the fastener product is disposed over the opening of the package to vary the size of the opening that is exposed to a user. As noted above, amended claim 6 covers packages that include an array of fastening elements permitting a first portion of a closure strip to be secured away from an opening defined by package to vary the size of the opening exposed to a user. Amended claim 20, as discussed above, covers methods that require an array of fastening elements permitting a first portion of a first base to be secured away from an opening of a package to vary the size of the opening. Provost does not disclose or suggest each and every limitation of claims 1, 6, and 20.

Steele discloses a flexible package 10 with an access device 24 that includes a first interlock portion 44 and a second interlock portion 45. (See, e.g., col. 6, lines 24-31). Steele does not disclose or suggest an array of fastening elements that permit a first portion of a closure to be secured away from an opening to vary the size of the opening.

As noted above, amended claim 5 covers closure labels that include “a perimeter gasket arranged around an opening in the substrate, the perimeter gasket connecting the second portion of the first base and the second portion of the second base in a unitary construction.” Steele fails to disclose or suggest a perimeter gasket and, therefore, also fails to disclose a perimeter gasket connecting a first and second base in a unitary construction.

As also noted above, amended claim 19 covers packages including an “opening shaped to receive a fitment” and a closure strip with first fastening elements “engageable with an array of fastening elements on the fitment to secure the fitment to the package.” Steele discloses improving pouring efficiency from a package by shaping an access device in the shape of a pour spout. (See, e.g., Steele, col. 3, lines 44-47). Steele fails to disclose or suggest an opening

shaped to receive a fitment and further fails to disclose or suggest fastening elements engageable with fastening elements on a fitment.

In view of the foregoing discussion, Applicants request reconsideration and withdrawal of the rejections of claims 1-6, 9-20, 22, and 23 as anticipated by Steele.


Claim Rejections – 35 U.S.C. § 103

Claims 9-12 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Provost or Ruben. However, as discussed above, Provost and Ruben do not disclose each and every limitation of these claims. Nor do Provost or Ruben suggest the limitations noted to be lacking from their disclosures. Therefore, Applicants request reconsideration and withdrawal of the rejection of claims 9-12 and 23.

Enclosed is a \$250 check for excess claims fee. Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: November 2, 2003



Michael R. Hamlin
Reg. No. 54,149

Fish & Richardson P.C.
One Congress Plaza
Suite 810
111 Congress Avenue
Austin, TX 78701
Telephone: (512) 472-5070
Facsimile: (512) 320-8935